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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

TYLER BURNARD,  
MICHAEL BRITZIUS,  
DOUGLAS STYLES,

Plaintiffs,

v.

OREGON STATE HOSPITAL,  
ADAM GIBLIN, Personally,  
DELORES MATTEUCCI, Personally,  
PATRICK ALLEN, Personally,

Defendants.

Case No. 6:22-cv-01982-MC

ANSWER AND AFFIRMATIVE DEFENSES

Defendants Oregon State Hospital (“OSH”), Adam Giblin, Dolores Matteucci, and Patrick Allen (collectively referred to as “Defendants”) hereby answer Plaintiffs’ Amended Complaint as follows:

1.

Defendants deny Plaintiffs are entitled to the relief identified in paragraph 1. To the extent this paragraph alleges anything further or different, Defendants deny the same.

2.

Paragraph 2 contains legal conclusions for which no response is required.

3.

Paragraph 3 contains legal conclusions for which no response is required.

4.

As to paragraph 4, Defendants admit that Plaintiffs Burnard and Styles are patients at OSH but deny that Plaintiff Britzius is currently at OSH as he was conditionally released July 18, 2023.

5.

As to paragraph 5, Defendants admit that Defendants Matteucci and Giblin are current Oregon Health Authority (“OHA”) employees whose duties encompass security, policy, and training, among others. Defendants admit that Patrick Allen is a former Director of OHA. To the extent this paragraph alleges anything further or different, Defendants deny the same.

6.

Defendants admit that the OSH houses more than 500 patients. To the extent paragraph 6 contains legal conclusions, no response is required. Defendants deny the remaining allegations in paragraph 6.

7.

Defendants admit the OSH policies were revised on or about July 5, 2022, and that patients and family members now may only purchase items through the OSH Market. Defendants further admit if an item is not available through the OSH Market, the patient may request authorization from OSH to purchase an item through OSH’s ordering system, with some restrictions. To the extent paragraph 7 alleges anything further or different, Defendants deny the same.

8.

With regards to paragraph 8a, Defendants deny Plaintiff Burnard was denied previously allowed packages to the extent Plaintiffs claim this violated any state or federal law. Defendants deny that Plaintiff Burnard is prohibited from sending packages or bound written material. Defendants are without sufficient information to admit or deny the remaining allegations in paragraph 8a and therefore deny the same.

9.

As to paragraph 8b, Defendants deny Plaintiff Styles was denied previously allowed packages to the extent Plaintiffs claim this violated any state or federal law. Defendants deny that Plaintiff Styles is prohibited from ordering any religious items but admit that there is an authorization process for approving orders for spiritual and cultural items. Defendants are without sufficient information to admit or deny the remaining allegations in paragraph 8b and therefore deny the same.

10.

As to paragraph 9, Defendants deny Plaintiff Burnard was denied previously allowed packages to the extent Plaintiffs claim this violated any state or federal law. Defendants deny that Plaintiff Burnard is prohibited from sending items outside the facility. Defendants lack sufficient information to admit or deny the remaining allegations in paragraph 9 and therefore deny the same.

11.

Defendants deny the allegations in paragraph 10 that Plaintiff Britzius was denied previously allowed packages to the extent Plaintiffs claim this violated any state or federal law. Defendants deny that Plaintiff Britzius is currently subject to these regulations as he has been conditionally released from OSH. Defendants lack sufficient information to admit or deny the remaining allegations in paragraph 10 and therefore deny the same.

12.

Defendants deny the allegations in paragraph 11 that Plaintiff Britzius was denied previously allowed packages to the extent Plaintiff claims this violated any state or federal law. Defendants deny that Plaintiff Britzius is currently subject to these regulations as he has been conditionally released from OSH. Defendants lack sufficient information to admit or deny the remaining allegations in paragraph 11 and therefore deny the same.

13.

Defendants deny the allegations in paragraph 12 that Plaintiff Styles was denied previously allowed packages to the extent Plaintiffs claim this violated any state or federal law. Defendants deny that Plaintiff Styles is prohibited from ordering any religious items but admit that there is an authorization process for approving orders for spiritual and cultural items. Defendants lack sufficient information to admit or deny the remaining allegations in paragraph 12 and therefore deny the same.

14.

Defendants deny the allegations in paragraph 13 that Plaintiff Styles was denied previously allowed packages to the extent Plaintiffs claim this violated any state or federal law. Defendants deny that Plaintiff styles is prohibited form sending items outside of the facility. Defendants deny that Plaintiff Styles is prohibited from ordering any religious items but admit that there is an authorization process for approving orders for spiritual and cultural items. Defendants lack sufficient information to admit or deny the remaining allegations in paragraph 13 and therefore deny the same.

15.

Defendants deny that the policy referenced in paragraph 14 was not disseminated at OSH, deny that it is not honored, and deny that no patient or staff has ever seen it before. Defendants are without sufficient information to admit or deny the remaining allegations in paragraph 14, and therefore deny the same.

16.

Defendants admit a tort claim notice was provided. To the extent paragraph 15 alleges anything further or different, Defendants deny the same. To the extent that paragraph 15 contains legal conclusions, no response is required.

**COUNT 1**

**VIOLATIONS OF FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION**

17.

Paragraph 16 contains no allegations and requires no response.

18.

Defendants deny the allegations contained in paragraphs 17-18. To the extent paragraphs 17-18 contain legal conclusions, no response is required.

19.

Defendants deny that plaintiffs are entitled to the relief they seek in paragraph 19.

**COUNT 2**

**VIOLATIONS OF THE SUBSTANTITIVE DUE PROCESS CLAUSE OF THE  
FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION**

20.

Paragraph 20 contains no allegations and requires no response.

21.

Defendants deny the allegations contained in paragraphs 21-22. To the extent paragraphs 21-22 contain legal conclusions, no response is required.

22.

Defendants deny that plaintiffs are entitled to the relief they seek in paragraph 23.

**COUNT 3**

**VIOLATIONS OF THE PROCEDURAL DUE PROCESS CLAUSE OF THE  
FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION**

23.

Paragraph 24 contains no allegations and requires no response.

24.

Defendants deny the allegations in paragraphs 25-26. To the extent paragraphs 25-26 contain legal conclusions, no response is required.

25.

Defendants deny Plaintiffs are entitled to the relief they seek in paragraph 27.

**COUNT 4**

**UNFAIR TRADE PRACTICES ACT (UTPA) VIOLATIONS**

26.

As this claim for relief has been dismissed, Defendants decline to plead in response to paragraphs 28-31.

**COUNT 5**

**INTENTIONAL INTERFERENCE WITH ECONOMIC RELATIONS (IIER)**

27.

As this claim for relief has been dismissed, Defendants decline to plead in response to paragraphs 32-33.

28.

Defendants deny the allegations contained in paragraphs 34-35 and deny that plaintiffs are entitled to injunctive relief.

29.

Defendants deny Plaintiffs are entitled to the relief requested.

30.

Defendants deny each and every allegation of Plaintiff's Complaint not expressly admitted herein.

### **FIRST AFFIRMATIVE DEFENSE**

#### **Qualified Immunity**

31.

Defendants incorporate herein the admissions, denials and allegations as set forth above.

32.

Defendants allege that at all times relevant to plaintiff's Complaint, they were acting in good faith and within their discretion pursuant to the laws and statutes of the State of Oregon and the United States, and defendants' conduct violated no clearly established statutory or constitutional rights of which a reasonable official would have knowledge.

### **SECOND AFFIRMATIVE DEFENSE**

#### **Eleventh Amendment Immunity**

33.

Defendants incorporate herein the admissions, denials and allegations set forth above.

34.

Defendant, Oregon State Hospital, alleges that it is immune from suit in federal court and protected under Eleventh Amendment immunity. Defendants Matteucci, Giblin, and Allen allege they are immune from suit in federal court as to federal law claims pled against them in their official capacities and as to state and common law claims.

### **THIRD AFFIRMATIVE DEFENSE**

#### **Legislative Immunity**

35.

Defendants incorporate herein the admissions, denials, and allegations set forth above.

36.

Defendants Matteucci, Giblin, and Allen allege that they are entitled to legislative immunity for their performance of legislative functions, including the adoption of administrative rules.

#### **FOURTH AFFIRMATIVE DEFENSE**

##### **Failure to state a claim**

37.

Defendants incorporate herein the admissions, denials, and allegations set forth above.

38.

Plaintiffs fail to state a claim upon which this Court can grant relief under one or more of the theories set forth in the Complaint.

#### **RESERVATION OF ADDITIONAL DEFENSES**

39.

Defendants reserve the right to assert additional defenses as may become known to them through investigation and discovery.

#### **JURY TRIAL DEMAND**

40.

Defendants demand a jury trial.



**WHEREFORE**, having fully answered Plaintiffs Complaint herein, Defendants pray for a judgment in their favor, for dismissal of Plaintiffs' Complaint with prejudice against Defendants, for an award of costs and disbursements incurred herein, and for such other and further relief as the Court may deem appropriate.

DATED February 20, 2024.

Respectfully submitted,

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Of Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I certify that on February 20, 2024, I served the foregoing ANSWER TO AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES upon the parties hereto by the method indicated below, and addressed to the following:

Leonard R. Berman  
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*Attorney for Plaintiffs*

☐ HAND DELIVERY  
☐ MAIL DELIVERY  
☐ OVERNIGHT MAIL  
☐ TELECOPY (FAX)  
☐ E-MAIL  
☒ E-SERVE

*s/ Sara Del Rubin*  
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